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U.S. Department of Homeland Security
20 Mass. Avenue, Rm. A3000, N.W.
Washington, DC 20529



U.S. Citizenship and Immigration Services

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PUBLIC COPY

[Redacted]

FILE:

[Redacted]

Office: CHICAGO, IL

Date: JUL 07 2006

IN RE:

[Redacted]

APPLICATION:

Application for Waiver of Grounds of Inadmissibility under Section 212(i) of the Immigration and Nationality Act, 8 U.S.C. § 1182(i)

ON BEHALF OF APPLICANT:

[Redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The waiver application was denied by the Interim District Director, Chicago, IL, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of the Philippines who was found to be inadmissible to the United States (U.S.) under section 212(a)(6)(C)(i) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1182(a)(6)(C)(i), for having procured admission into the United States by fraud or willful misrepresentation in May 1999. The applicant's parents are U.S. citizens. The applicant seeks a waiver of inadmissibility pursuant to section 212(i) of the Act, 8 U.S.C. § 1182(i).

The interim district director concluded that the applicant did not establish that his parents would suffer extreme hardship as a result of his inadmissibility. The application was denied accordingly. *Interim District Director's Decision*, June 9, 2003.

On appeal, counsel asserts that the applicant does meet the requirements necessary to grant a waiver, the Service failed to address numerous issues in its denial, the Service's discounting of the applicant's father's illness was a grave error, and the applicant has many favorable factors in his case. Form *I-290B Form*, dated June 30, 2003.

Section 212(a)(6)(C) of the Act provides, in pertinent part, that:

- (i) Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act is inadmissible.

Section 212(i) of the Act provides that:

- (1) The Attorney General [now the Secretary of Homeland Security, "Secretary"] may, in the discretion of the Attorney General [Secretary], waive the application of clause (i) of subsection (a)(6)(C) in the case of an alien who is the spouse, son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General [Secretary] that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such an alien.

The record indicates that in May 1999 the applicant entered the United States using a fraudulent Filipino passport. Section 212(i) of the Act provides that a waiver of the bar to admission resulting from section 212(a)(6)(C) of the Act is dependent first upon a showing that the bar imposes an extreme hardship on a qualifying family member. Hardship the alien himself experiences due to separation is irrelevant to section 212(i) waiver proceedings unless it causes hardship to the applicant's parents. Once extreme hardship is established, it is but one favorable factor to be considered in the determination of whether the Secretary should exercise discretion. *See Matter of Mendez*, 21 I&N Dec. 296 (BIA 1996).

The AAO notes that extreme hardship to the applicant's parents must be established in the event that they reside in the Philippines or in the event that they reside in the United States, as they are not required to reside

outside of the United States based on the denial of the applicant's waiver request. The AAO will consider the relevant factors in adjudication of this case.

The first part of the analysis requires the applicant to establish extreme hardship to his parents in the event that they reside in the Philippines. All of the applicant's immediate family resides in the United States. In addition, the applicant submitted documentation establishing that his father receives kidney dialysis and is currently on a kidney transplant wait list. The applicant also submitted a psychological report from [REDACTED] dated November 15, 2001. In his report [REDACTED] states that the applicant's parents are on welfare and cannot travel to the Philippines. The AAO notes that much of [REDACTED] report focuses on the hardship suffered by the applicant. As stated above, hardship to the applicant himself is irrelevant to this waiver application and will not be considered. However, the AAO finds that because of the applicant's father's medical condition and the parent's family ties to the United States they would suffer extreme hardship as a result of relocating to the Philippines. Thus, the record does reflect that relocation will result in extreme hardship to the applicant's parents.

The second part of the analysis requires the applicant to establish extreme hardship in the event that his parents reside in the United States. The AAO notes that the applicant's parents and two of his siblings reside in northern California and the applicant resides in Chicago, IL. Counsel states in his brief that the applicant's father will suffer extreme hardship as a result of being separated from the applicant because the applicant may be a possible kidney donor for the father. Counsel submitted no documentation to support his claim that the applicant is a potential kidney donor for the father. There is no evidence in the record that shows the applicant is the same blood type as his father, there is no evidence that the tests for possible organ donation have been started, nor is there evidence that the tests for the possible organ donation could not be conducted in the Philippines. [REDACTED] also states in his report that the applicant supports his parents financially by sending them spending money. As noted above, the applicant resides in Chicago and the parents reside in California with the applicant's two siblings. There is no evidence that the applicant's siblings cannot help support the applicant's parents. Furthermore, [REDACTED] states that the applicant's parents fear that they may never see the applicant again if he is removed to the Philippines and that his removal will adversely affect their health, but no clinical tests were performed to show the extent of the applicant's parent's emotional stress as a result of the applicant's immigration status. The AAO notes that the applicant's parents may experience emotional hardships as a result of the removal of the applicant. However, the current record does not indicate that their situation is above and beyond what individuals normally experience as a result of removal and does not rise to the level of extreme hardship.

U.S. court decisions have repeatedly held that the common results of deportation or exclusion are insufficient to prove extreme hardship. See *Hassan v. INS*, 927 F.2d 465, 468 (9th Cir. 1991). For example, *Matter of Pilch*, 21 I&N Dec. 627 (BIA 1996), held that emotional hardship caused by severing family and community ties is a common result of deportation and does not constitute extreme hardship. In addition, *Perez v. INS*, 96 F.3d 390 (9th Cir. 1996), held that the common results of deportation are insufficient to prove extreme hardship and defined extreme hardship as hardship that was unusual or beyond that which would normally be expected upon deportation. *Hassan v. INS*, *supra*, held further that the uprooting of family and separation from friends does not necessarily amount to extreme hardship but rather represents the type of inconvenience and hardship experienced by the families of most aliens being deported.

A review of the documentation in the record fails to establish the existence of extreme hardship to the applicant's parents caused by the applicant's inadmissibility to the United States. Having found the applicant statutorily ineligible for relief, no purpose would be served in discussing whether he merits a waiver as a matter of discretion.

In proceedings for application for waiver of grounds of inadmissibility under section 212(a)(9)(B) of the Act, the burden of proving eligibility remains entirely with the applicant. *See* section 291 of the Act, 8 U.S.C. § 1361. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.